

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	WC Docket No. 17-79
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition act of 1992)	

**REPLY COMMENTS ON THE SECOND FURTHER NOTICE OF PROPOSED
RULEMAKING OF THE GREENLINING INSTITUTE, CENTER FOR MEDIA
JUSTICE, AND MEDIA ACTION GRASSROOTS NETWORK**

In accordance with the Commission’s *Second Further Notice of Proposed Rulemaking* (“*Second FNPRM*”) in this docket, The Greenlining Institute (“Greenlining”), Center for Media Justice (“CMJ”) and Media Action Grassroots Network (“MAG-Net”) file these Reply Comments.

The Greenlining Institute is a nonprofit policy, research, organizing, and leadership institute working for racial and economic justice. Greenlining advances economic opportunity and empowerment for people of color through advocacy, community and coalition building, research, and leadership development.

Center for Media Justice is a national nonprofit organization whose mission is to fight for racial and economic equity in a digital age. CMJ boldly advances communication rights, access, and power for all communities harmed by persistent inequality. CMJ is also the host of the Media Action Grassroots Network.

Media Action Grassroots Network is the largest racial justice network for media, technology and cultural change in the United States. With 100 local and national member organizations, MAG-Net ensures racial and economic justice organizations a seat at local, state,

and national media and technology policy tables and a voice in decisions about our digital future. Three of MAG-Net's members are Public, Educational, and Governmental (PEG) Access television stations: CreaTV, based in San Jose, CA; St. Paul Neighborhood Network, based in St. Paul, MN, and Philly CAM, based in Philadelphia, PA.

I. INTRODUCTION AND SUMMARY

While couched as a straightforward attempt to harmonize the Commission's rules with the recent decision in the Montgomery County case,¹ the Second FNPRM is yet another Commission attempt to deprive municipalities of the ability to negotiate with providers at arms' length. As noted by other parties, the Second FNPRM focuses on the goal of encouraging cable operators to invest in new facilities and services to the exclusion of all other congressionally mandated goals.² It appears that for the Commission to meet its statutory duties to protect consumers and ensure that everyone has access to affordable communications services, it is not enough for the Commission to eliminate consumers' ability to access the Internet content of their choosing,³ municipalities' ability to control their public rights-of-way,⁴ or states' ability to fund universal service programs.⁵ Now, the Second FNRPM finds it necessary to deny "groups and individuals who generally have not had access to the electronic media...the opportunity to become sources of information in the electronic marketplace of ideas."⁶

¹ *Montgomery County, MD. Et al. v. FCC*, 863 F.3d 485 (6th Cir. 2017).

² *See* Opening Comments of The Alliance for Communications Democracy et al. at 3.

³ *See* Declaratory Ruling, Report and Order, and Order, In the Matter of Restoring Internet Freedom, WC Docket No. 17-108 (Jan. 4, 2018).

⁴ *See* Declaratory Ruling and Third Report and order, In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84 (Sept. 27, 2018).

⁵ *See* Declaratory Ruling, In the Matter of Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service, WT Docket No. 08-7 (December 12, 2018).

⁶ H.R. Rep. No. 98-934, at 30.

II. THE COMMISSION’S OWN RULES HAVE LED TO A LACK OF DIVERSE VOICES AND OWNERS IN LOCAL MEDIA MARKETS.

The Commission is charged with ensuring that communications services are available “without discrimination on the basis of race, color, religion, national origin, or sex.”⁷ However, the Commission has not always been successful in accomplishing this goal. For example, the Commission has long noted the low levels of broadcast station ownership by women and people of color.⁸ As noted by then-Commissioner Clyburn, the Commission’s 2017 ownership rule changes promise to further eliminate ownership by women and people of color, replacing them with “media empires that will be light years removed from the very local communities they are supposed to serve.”⁹ Any policies designed to encourage investment in new facilities and services that do not remedy these historical inequities are insufficient. In this proceeding, the Commission should consider the real-world racial equity impacts of its policies, particularly the ample, repeated evidence that deregulatory policies have consistently resulted in disparate impacts on communities of color.

III. PEG STATIONS PROVIDE AN ESSENTIAL PUBLIC BENEFIT TO THE COMMUNITIES THEY SERVE BY PROMOTING DIVERSE VOICES AND OWNERS IN LOCAL MEDIA MARKETS.

Public, educational, and government access (PEG) stations promote the voices of communities of color by delivering diverse local content. For example, over the last year, PhillyCAM, a people of color-led nonprofit that operates the City of Philadelphia’s public access

⁷ 47 U.S.C. § 151.

⁸ Fed. Comm. Comm’n., Second Report and Order ¶10, In the Matter of 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 14-50 (August 25, 2016).

⁹ Fed. Comm. Comm’n., Order on Reconsideration and Further Notice of Proposed Rulemaking, Dissenting Opinion of Mignon L. Clyburn, In the Matter of 2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 14-50 (Nov. 20, 2017).

television network has delivered over 800 hours of locally-sourced original programming. Similarly, CreaTV, a nonprofit community media center in San Jose, California, has aired more than 30,000 community videos in eight languages since 2008, and in 2017, distributed over 2700 hours of original content. In 2017, The St. Paul Neighborhood Network served nearly 4,200 people directly and provided 55,000 households with locally-focused TV through its four cable channels.

PEG stations are essential members of their community. In 2017 CreaTV served 198 nonprofit organizations in its region with education and affordable media production. In 9 years, PhillyCAM membership has gone from 50 community members to over 1,000. PEG stations not only provide access to information for unserved and underserved communities, they also provide additional community benefits including media production training. For example, PhillyCAM provides access to free to low cost video production training, high definition TV and radio station equipment and youth media projects. This training is invaluable to community members:

“What SPNN did for me is gave me a camera that I could take home with me. I learned to meddle with it, zoom in zoom out, [and] discover. It’s like almost having a pen for the very first time.”¹⁰

PEG stations promote the voices of communities of color, provide training, and are critical community partners.

IV. THE COMMISSION MUST REJECT THE SECOND FNPRM’S ATTEMPT TO PREEMPT THE AUTHORITY OF STATES AND MUNICIPALITIES.

As noted by the Alliance for Communications Democracy, the Second FNPRM’s changes to the rules regarding the five percent franchise fee cap would undermine the Cable Act’s goals of promoting localism and diverse content, and would have devastating fiscal

¹⁰ SPNN, Member Spotlight, Aida, *available at* <https://www.youtube.com/watch?v=LxKCS9dUT14>.

impacts on local communities.¹¹ The Commission must reject the second FNPRM's dangerous attempt to preempt the authority of states and municipalities. Accordingly, the Commission should abandon the proposal to include PEG requirements in the five percent franchise fee cap.

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Respectfully submitted,

/s/ Paul Goodman
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¹¹ Opening Comments of The Alliance for Communications Democracy et al. at 3.

Declaration of Paul Goodman

My name is Paul Goodman. I am the Director of Telecommunications and Technology Policy of the Greenlining Institute.

I am familiar with the contents of the foregoing Petition to Deny. The factual assertions made in the petition are true to the best of my knowledge and belief.

I declare that the foregoing is true and correct.

Executed on December 14, 2018

/s/ Paul Goodman
Paul Goodman